

"Sec. 2. No contract made between the employer and employe based upon the contingency of death or injury of the employe, and limiting the liability of the employe under this act, or fixing damages to be recovered, shall be valid or binding.

Sec. 3. Nothing in this act shall be held to impair or diminish the defense of contributory negligence when the injury of the servant or employe is caused proximately by his own contributory negligence.

Senator Gough made the point of order that the substitute was not in order, for the reason that the bill had in effect already been substituted.

Not sustained.

Pending action, the following House message was received:

Hall House of Representatives,
Austin, Texas, June 8, 1897.

Hon. George T. Jester, President of the Senate:

I am directed by the House to inform the Senate of the passage of the following bill:

Senate bill No. 2, a bill to be entitled "An act making appropriations for the support of the State government for the years beginning March 1, 1897, and ending February 28, 1899, and for other purposes."

With amendments, and by the following vote: yeas 71, nays 15.

Respectfully,

LEE J. ROUNTREE,

Chief Clerk House of Representatives.

Senator Colquitt called up Senate bill No. 2 (see caption above), which had passed the House with amendments, and moved that the Senate do not concur in said amendments, and that the appointment of a free conference committee to consider the differences of the two houses thereon be requested.

Carried.

After discussion of Senator Stafford's substitute,

On motion of Senator Burns, the Senate adjourned to 10 o'clock a. m. to-morrow by the following vote:

Yeas—13.

Atlee.	Linn of Victoria.
Beall.	Morriss.
Burns.	Neal.
Darwin.	Ross.
Goss.	Stafford.
Greer.	Turney.
Kerr.	

Nays—9.

Colquitt.	Harrison.
Gough.	Lewis.

4—Senate

Linn of Wharton	Woods.
Presler.	Yantis.
Rogers.	

Absent.

Bailey.	Terrell.
Bowser.	Tillett.
Dibrell.	Wayland.
Stone.	Yett.

Excused.

Boren.

FOURTEENTH DAY.

Senate Chamber,
Austin, Tex., Wednesday, June 9.

Senate met pursuant to adjournment.

Lieutenant Governor Jester in the chair.

Roll called.

Quorum present, the following Senators answering to their names:

Atlee.	Linn, Wharton.
Beall.	Morriss.
Bowser.	Neal.
Burns.	Presler.
Colquitt.	Rogers.
Darwin.	Ross.
Dibrell.	Stafford.
Goss.	Terrell.
Gough.	Turney.
Greer.	Wayland.
Harrison.	Woods.
Kerr.	Yantis.
Lewis.	Yett.
Linn, Victoria.	

Absent.

Bailey.	Tillett.
Stone.	

Excused.

Boren.

Prayer by the Chaplain, Rev. F. S. Jackson, as follows:

Almighty God: We give Thee unanimous and unfeigned thanks for all Thy mercies and blessings lavished upon us. Thou hast been so good to us. Work within us all the miracles of Thy grace. Wash us with Thy blood, cleans us by the wondrous sacrifice of Thy Son, and recover us from all alienation, from bitter hostility, and from all insubordination of heart, and bring us one and all with joyous consent to know and obey Thy will. Regard our land and country. Give wisdom to our counsellors and direction to our leaders. With Thy grace do Thou bless the President of these United States and his cabinet. The Lord cause prosperity to return to our trade and commerce, and establish

confidence in all our honorable relations with the various nations of the earth. We ask for Christ's sake. Amen.

Pending the reading of the Journal of yesterday,

On motion of Senator Atlee, the same was dispensed with.

BILLS AND RESOLUTIONS.

By Senator Rogers:

Whereas, in the consideration of the general appropriation bill in the Senate last week, under a misapprehension as to the facts, and of the duties of the expert printer, and not then fully understanding all his duties, the Senate cut his salary to the amount provided by statute, \$900 a year; and

Whereas, it having been now made clear to the Senate that the statute fixing that salary does not define half the duties and responsibilities which are imposed upon him as secretary of the printing board; now, therefore, be it

Resolved, that if there should be a necessity for a free conference committee on said appropriation bill, that the committee on the part of the Senate is hereby requested to fix the salary as it was in the original bill: "For salary of expert printer and secretary of the printing board, \$1600."

Senator Colquitt made the point of order that the resolution was not in order, for the reason that the appropriation bill, to be considered by the free conference committee, was not the Senate bill, but a substitute therefor.

Not sustained.

Senator Linn of Victoria offered to amend as follows:

Amend by adding to the resolution: "And be it further resolved, the said conference committee be requested to insist that the salaries of all department clerks be maintained at the sums paid for the past two years."

After discussion, and pending action,

The Chair ruled the resolution and the amendment thereto out of order.

Call concluded.

BILLS ON SECOND READING.

The Chair laid before the Senate, on second reading,

Senate bill No. 7, a bill to be entitled "An act to prescribe and define the liability of persons, receivers or corporations operating railroads or

hibit contracts between employer and employe based upon the contingency of the injury or death of the employe, limiting the liability of the employer for damages,"

Action being on Senator Stafford's substitute, to-wit:

Amend by substituting the following after the caption:

"Section 1. Be it enacted by the Legislature of the State of Texas: That every person, receiver or corporation controlling or operating a railroad or street railway, the line of which shall be situated in whole or in part in this State, shall be liable for all damages sustained by any servant or employe of such person, receiver or corporation by reason of the negligence of any other servant or employe of such person, receiver or corporation, except when such employes or servants are working together at the same time and place, to a common purpose, and in the same grade of employment.

"Sec. 2. No contract made between the employer and employe based upon the contingency of death or injury of the employe, and limiting the liability of the employe under this act, or fixing damages to be recovered, shall be valid or binding.

"Sec. 3. Nothing in this act shall be held to impair or diminish the defense of contributory negligence when the injury of the servant or employe is caused proximately by his own contributory negligence."

(Senator Linn of Wharton in the chair.)

After discussion, the substitute was lost by the following vote:

Yeas—9.

Atlee.	Linn of Victoria.
Beall.	Neal.
Burns.	Stafford.
Dibrell.	Wayland.
Kerr.	

Nays—16.

Bowser.	Linn of Wharton.
Colquitt.	Morriss.
Darwin.	Presler.
Goss.	Rogers.
Gough.	Ross.
Greer.	Terrell.
Harrison.	Woods.
Lewis.	Yett.

Yea.	Paired.	Nay.
Turney.	Yantis.	

Absent.

Bailey.	Tillett.
Stone.	

(Lieutenant Governor Jester in the chair.)

By Senator Stafford:

Amend by adding to the bill the following:

"Sec. 5a. The provisions of this bill shall not apply to any employe whose employment is fixed, regulated or in any wise affected by any contract whereby the employer of such persons agrees to discriminate in favor of or to grant special preferences to any person, or association of persons, in the employment, promotion or discharge of laborers or employes."

Senator Lewis moved to table the amendment.

The Senate refused to table by the following vote:

Yeas—12.

Bowser.	Linn, Wharton.
Colquitt.	Presler.
Darwin.	Rogers.
Gough.	Ross.
Harrison.	Terrell.
Lewis.	Woods.

Nays—14.

Atlee.	Linn, Victoria.
Beall.	Morriss.
Burns.	Neal.
Dibrell.	Stafford.
Goss.	Turney.
Greer.	Wayland.
Kerr.	Yett.

Absent.

Bailey.	Tillett.
Stone.	Yantis.

Excused.

Boren.

By Senator Greer:

Substitute the amendment as follows: Add to section 5 the following: "Provided, that when an employe is employed or promoted by a person, receiver or corporation operating a railroad, whose service or promotion is dictated by any organization, against the will of the employer, such employe shall be regulated by the provisions of section 3 of this act."

Senator Colquitt made the point of order that neither the amendment nor the substitute therefor was germane to the bill.

Not sustained.

(Senator Atlee in the chair.)

After discussion,

Senator Greer withdrew his substitute, and in lieu thereof offered the following:

Add to section 5: "Provided, that when an employe is employed or promoted by a person, receiver or cor-

poration operating a railroad, whose service or promotion is dictated by any organization against the express will of the employer, such employe, when a fellow-servant under section 3 of this act with another employe, shall not be permitted to recover for damages sustained by reason of the negligence of any such other servant or employe, even though his injury occurred in the work of operating the cars, locomotives or trains of such person, receiver or corporation."

Lost by the following vote:

Yeas—10.

Atlee.	Linn of Victoria.
Beall.	Neal.
Dibrell.	Stafford.
Greer.	Wayland.
Kerr.	Yett.

Nays—17.

Bowser.	Morriss.
Burns.	Presler.
Colquitt.	Rogers.
Darwin.	Ross.
Goss.	Terrell.
Gough.	Turney.
Harrison.	Woods.
Lewis.	Yantis.
Linn of Wharton.	

Absent.

Bailey.	Tillett.
Stone.	

Excused.

Boren.

By Senator Dibrell:

Amend by adding to section 1 the following: "Provided, that when any such employe sues such person, receiver or corporation to recover damages sustained by reason of the negligence of any other employe, such person, receiver or corporation shall be permitted to implead such employe of whose negligence complaint is made, as shown by the complainant's petition, and in case such complainant recovers judgment, such person, receiver or corporation shall be permitted to recover judgment over against such negligent employe."

Lost by the following vote:

Yeas—13.

Atlee.	Linn of Victoria.
Beall.	Neal.
Burns.	Stafford.
Colquitt.	Turney.
Dibrell.	Wayland.
Greer.	Yett.
Kerr.	

Nays—14.

Bowser.	Goss.
Darwin.	Gough.

Harrison.	Rogers.
Lewis.	Ross.
Linn of Wharton.	Terrell.
Morriss.	Woods.
Presler.	Yantis.

Absent.

Bailey.	Tillett.
Stone.	

Excused.

Boren.

The bill was then ordered engrossed by the following vote:

Yeas—22.

Atlee.	Linn of Wharton.
Beall.	Morriss.
Bowser.	Presler.
Colquitt.	Rogers.
Goss.	Ross.
Gough.	Stafford.
Greer.	Terrell.
Harrison.	Turney.
Kerr.	Woods.
Lewis.	Yantis.
Linn of Victoria.	Yett.
Linn of Wharton.	

Nays—4.

Burns.	Neal.	
Dibrell.	Wayland.	
Yea.	Paired.	Nay.
Darwin.	Stone.	
	Absent.	
Bailey.	Tillett.	
	Excused.	

Boren.

(Lieutenant Governor Jester in the chair.)

Senator Lewis moved to reconsider the vote by which the bill was ordered engrossed, and to lay that motion on the table.

Carried.

Senator Gough moved to suspend the constitutional rule requiring bills to be read on three several days, and that Senate bill No. 7 (fellow-servant bill) be put upon its third reading and final passage.

Lost by the following vote (requiring a four-fifths vote):

Yeas—19.

Bowser.	Morriss.
Colquitt.	Presler.
Darwin.	Rogers.
Goss.	Ross.
Gough.	Terrell.
Greer.	Turney.
Harrison.	Woods.
Lewis.	Yantis.
Linn of Victoria.	Yett.

Nays—8.

Atlee.	Kerr.
Beall.	Neal.
Burns.	Stafford.
Dibrell.	Wayland.

Absent.

Bailey.	Tillett.
Stone.	

Excused.

Boren.

HOUSE MESSAGE.

The following House message was received:

Hall House of Representatives,
Austin, Texas, June 9, 1897.

Hon. Geo. T. Jester, President of the Senate:

I am directed by the House to inform the Senate that the House has granted the request of the Senate for a free conference committee on Senate bill No. 5, and appoints Messrs. Dean, Oliver, Curry, Morris and Thomas as committee on part of the House.

Also, that the House has granted the request of the Senate for a free conference committee on Senate bill No. 2, making appropriations, etc., and appoints Messrs. Garrison, Freeman, Wilcox, Conoly and Pfeuffer as committee on part of the House.

Respectfully,

LEE J. ROUNTREE, Chief Clerk.

The Chair announced the following free conference committee on part of the Senate to consider the differences of the two houses on Senate bill No. 2 (appropriation bill): Senators Colquitt, Turney, Linn of Wharton, Morriss and Yett.

On motion of Senator Colquitt, the Senate adjourned to 3 p. m.

AFTERNOON SESSION.

Senate met pursuant to adjournment.

Lieutenant Governor Jester in the chair.

Roll called.

Quorum present, the following Senators answering to their names:

Beall.	Gough.
Bowser.	Greer.
Burns.	Harrison.
Colquitt.	Kerr.
Darwin.	Linn of Victoria.
Dibrell.	Linn of Wharton.
Goss.	Morriss.

Neal.	Turney.
Rogers.	Wayland.
Ross.	Woods.
Terrell.	Yantis.
Tillett.	Yett.

Absent.

Atlee.	Presler.
Bailey.	Stafford.
Lewis.	Stone.

Excused.

Boren.

On motion of Senator Woods,
Senator Bailey was excused for non-attendance on yesterday and to-day, on account of important business.

On motion of Senator Yantis,
Senator Wayland was excused for non-attendance on yesterday, on account of important business.

On motion of Senator Ross,
Senator Beall was excused for non-attendance on last week, on account of important business.

On motion of Senator Neal,
Senator Yett was excused for non-attendance on yesterday, on account of important business.

On motion of Senator Yett,
Senator Bowser was excused for yesterday, on account of important business.

On motion of Senator Beall,
Senator Harrison was excused for non-attendance on Wednesday and Thursday of last week, on account of important business.

On motion of Senator Goss,
Senator Dibrell was excused for non-attendance on yesterday, on account of important business.

On motion of Senator Yantis,
Senator Terrell was excused for non-attendance on Friday of last week and for yesterday, on account of important business.

On motion of Senator Burns,
Assistant Secretary Dodson and Doorkeeper Dale were excused for yesterday, on account of important business.

Senator Linn of Victoria moved to reconsider the vote by which the Senate this morning refused to suspend the constitutional rule and to put Senate bill No. 7 (fellow-servant bill) on its third reading and final passage.

Reconsidered.

The Senate then again refused to suspend the constitutional rule as to said bill, by the following vote (requiring a four-fifths vote):

Yeas—16.

Bowser.	Goss.
Darwin.	Gough.

Greer.	Ross.
Harrison.	Terrell.
Lewis.	Turney.
Linn of Victoria.	Woods.
Morriss.	Yantis.
Rogers.	Yett.

Nays—6.

Beall.	Kerr.
Burns.	Neal.
Dibrell.	Wayland.

Absent.

Atlee.	Stafford.
Colquitt.	Stone.
Linn of Wharton.	Tillett.
Presler.	

Excused.

Bailey.	Boren.
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Senator Wayland sent up the following committee report:

Committee Room,

Austin, Texas, June 9, 1897.

Hon. George T. Jester, President of the Senate:

Your Committee on Finance, to whom was referred

House bill No. 21, entitled "An act making an appropriation to defray the contingent expenses of the first called session of the Twenty-fifth Legislature, convened May 22, 1897, by proclamation of the Governor."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WAYLAND, Acting Chairman.

The Chair laid before the Senate, on second reading,

House bill No. 21, a bill to be entitled "An act making an appropriation to defray the contingent expenses of the first called session of the Twenty-fifth Legislature, convened May 22, 1897, by proclamation of the Governor."

Bill read second time, and passed to third reading.

On motion of Senator Wayland, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—20.

Beall.	Lewis.
Burns.	Linn of Victoria.
Darwin.	Morriss.
Dibrell.	Neal.
Gough.	Rogers.
Greer.	Ross.
Harrison.	Terrell.
Kerr.	Turney.

Wayland. Yantis.
Woods. Yett.

Nays—1.

Bowser.

Absent.

Atlee. Presler.
Colquitt. Stafford.
Goss. Stone.
Linn of Wharton. Tillet.

Excused.

Boren. Bailey.

Bill read third time, and passed by the following vote:

Yeas—21.

Atlee. Morriss.
Beall. Neal.
Burns. Rogers.
Colquitt. Ross.
Darwin. Terrell.
Gough. Turney.
Greer. Wayland.
Harrison. Woods.
Kerr. Yantis.
Lewis. Yett.
Linn of Victoria.

Nays—1.

Bowser.

Absent.

Dibrell. Stafford.
Goss. Stone.
Linn of Wharton. Tillet.
Presler.

Excused.

Bailey. Boren.

The following committee report was made:

Committee Room,
Austin, Texas, June 9, 1897.

Hon. George T. Jester, President of the Senate:

Your Committee on Finance, to whom was referred

Substitute House bills No. 6 and 19, a bill to be entitled "An act to regulate and fix the fees, salaries, commissions and perquisites of county judges, county attorneys, district attorneys, sheriffs and constables, when performing the duties of sheriffs, clerks of the county court, clerks of the district court and justices of the peace in examining trials, tax assessors and tax collectors of the several counties of the State of Texas, and to repeal all laws and parts of laws in conflict herewith."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the following amendment, to-wit:

Strike out all of said bill after the words "an act" and insert in lieu thereof the following:

"To fix certain civil fees to be charged by certain county and precinct officers and to fix and limit the fees and compensation of clerks of the district court, district attorneys, county attorneys, sheriffs and constables in felony cases, to be paid by the State, and to fix the compensation of assessors and collectors of taxes, and to limit and regulate the compensation of the sheriff, clerk of the county court, county judge, district and county attorney, clerk of the district court, assessor and collector of taxes, justices of the peace and constables, and to prescribe penalties for the violation of this act, and to repeal all laws in conflict herewith."

Be it enacted by the Legislature of the State of Texas:

Section 1. That hereafter, in all the counties in this State, where there shall have been cast at the next preceding presidential election 3000 votes or over, the clerks of the district courts, district attorneys, county attorneys, sheriffs and constables shall receive from the State the following fees and compensation in felony cases, and no more:

Sec. 2. The clerks of the district court shall receive for each felony case tried in such court by jury, whether the defendant be convicted or acquitted, the sum of \$8. For each transcript on appeal or change of venue, 8 cents for each 100 words. For each felony case finally disposed of without trial, or dismissed or nolle prosequi entered, \$8. For recording each account of sheriff, the sum of 50 cents. For entering judgment in habeas corpus cases, 80 cents, and for taking down testimony and preparing transcript in habeas corpus cases, 8 cents for each 100 words, but the fees in habeas corpus cases shall in no event exceed \$8 in any one case.

Sec. 3. The district or county attorneys shall receive the following fees:

1. For all convictions in cases of felonious homicide, when the defendant does not appeal or dies or escapes after appeal and before final judgment of the Court of Criminal Appeals, or when upon appeal the judgment is affirmed, the sum of \$40.

2. For all convictions of felony when the defendant does not appeal, or dies or escapes after appealing, and before final judgment of the Court of Criminal Appeals, or when upon appeal the judgment is affirmed, the sum of \$24:

provided, that in all convictions of felony, where the verdict and judgment the defendant is confinement in the House of Correction and Reformatory, the fees of the district or county attorney shall be \$12.

3. For representing the State in each case of habeas corpus where the defendant is charged with felony, the sum of \$16.

Sec. 4. The sheriffs or constables shall receive the following fees:

1. For executing each warrant of arrest or capias, or for making arrest without warrant, when authorized by law, the sum of 80 cents, and 4 cents for each mile actually and necessarily traveled in going to the place of arrest, and for conveying the prisoner or prisoners to jail, mileage as provided for in subdivision 5 shall be allowed.

2. For summoning or attaching each witness, 40 cents.

3. For summoning jury in each case where jury is actually sworn in, \$1.60.

4. For executing death warrants, \$40.

5. For removing a prisoner, for each mile going and coming, including guards and all other necessary expenses when traveling by railroad, 8 cents; when traveling otherwise than by railroad, 12 cents; provided, that when more than one prisoner is removed at the same time, in addition to the foregoing shall only be allowed 8 cents per mile for each additional prisoner; provided further, that when an officer goes beyond the limits of the State after a fugitive on requisition of the Governor, he shall receive such compensation as the Governor shall allow for such services.

6. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, 4 cents; provided, that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case, and he shall serve process on them in the same neighborhood or vicinity during the same trip. He shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage, and for such additional only as are actually and necessarily traveled in summoning and attaching each additional witness. When process is sent by mail to any officer away from the county seat, or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the officer shall show the

character of the service and miles actually traveled in accordance with this subdivision, and his accounts shall show the facts.

7. To officers for service of criminal process not otherwise provided for, the sum of 4 cents a mile going and returning shall be allowed; provided, if two or more persons are mentioned in the same or different writs the rule prescribed in subdivision 6 shall apply.

8. For conveying a witness attached by him to any court, or in any habeas corpus proceeding out of his county, or when directed by the judge from any other county to the court where the case is pending, \$1 per day for each day actually and necessarily consumed in going and returning from such courts, and his actual necessary expenses by the nearest practicable route, or nearest practicable public conveyance, the amount to be stated by him in an account, which shall show the place where the witness was attached, the distance to the nearest railroad station, and miles actually traveled to each court. If horses or vehicles are used, from whom hired and price paid, and length of time consumed and amount paid out for feeding horses and to whom. If meals and lodging were provided, from whom, and when, and price paid; provided, that officers shall not be entitled to receive exceeding 50 cents per meal and 35 cents per night for lodging for any witness; and provided further, that no item or items for expenses shall be allowed unless the officer shall present with his account to the officer whose duty it is to approve same a receipt in writing for each item of said account, except as to such items as are furnished by the officer himself; and when meals and lodgings are furnished by the officer in person conveying a witness he shall be allowed to receive not exceeding 25 cents per meal and 25 cents per night for lodging. All of the said receipts shall be filed with the clerk of the court approving such account. Said account shall also show, before the said officer shall be entitled to compensation for expenses of attached witnesses, that before starting with said witness to the foreign court, he carried each of them before the magistrate nearest the place of serving the attachment, giving his name and residence, and that said witness made oath in writing before said magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for

their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. And the officer shall also present to the court the affidavit of the witness to the same effect, or shall show that the witness refused to make the affidavit; and should it appear to the court that the witness was able and willing to give bond, the sheriff shall not be entitled to any compensation for conveying such witness, and said account shall be sworn to by the officer before any officer authorized to administer oaths, and shall state that said account is true, just and correct in every particular, and present the same to the judge, who shall, during such term of court, carefully examine such account and if found to be correct, in whole or in part, shall so certify and allow the same for such amount as he may find to be correct; and if by him allowed, in whole or in part, he shall so certify; and such account, with the affidavit of the sheriff and certificate of the judge, shall be recorded by the clerk of the district court in a book to be kept by him for that purpose, which shall constitute part of the proceedings or minutes of the court; and the clerk shall certify to the original account, and shall show that the same has been recorded; and said account shall then become due and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant, and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be willfully false. When the officer receiving the writ for the attachment of such witness, shall take a bond for the appearance of such witness, he shall be entitled to receive from the State \$1 for each bond so taken; but he shall be responsible to the court issuing said writ that said bond is in proper form and has been executed by the witness with one or more good or solvent sureties, and said bond shall in no case be less than \$100; provided, the Comptroller may require from such officer a certified copy of all such process before auditing any account; provided, that when no inquest or examining trial has been held, at which sufficient evidence was taken upon which to find an indictment, which fact shall be certified by the grand jury, or when the grand jury shall state to the district judge that an indictment can not be pro-

non-resident witnesses, the district judge may have attachments issued to other counties for witnesses, not to exceed the number for which the sheriff may receive pay, as provided for below, to testify before grand juries; provided, however, that the judge shall not approve the account of any sheriff for more than one witness to any one fact, nor more than any three witnesses to any one case pending before the grand jury, in which case the sheriff shall receive the same compensation as he does for conveying attached witnesses before the court. Subdivision 8 of section 4 of this act shall apply to the officers affected thereby in all the counties in Texas.

9. For attending a prisoner on habeas corpus, for each day, \$1.60, together with mileage, as provided in subdivision 5, when removing such prisoner out of the county, under an order issued by a district or appellate judge.

Sec. 5. All fees accruing under this act shall be due and payable at the close of each term of the district court after approval, except as provided for in subdivisions 8 and 9 of the preceding section, which shall be paid when approved by the judge under whose order the writ was issued; provided, that in all cases when the defendant shall be finally convicted of a misdemeanor, the sheriff or constable shall be required to pay back to the State Treasurer a sum of money equal to the amount he may have received from the State in such cases, and the said sheriff or constable and their bondsmen shall be responsible to the State for such sums.

Sec. 6. In cases where the defendant is indicted for a felony, and is convicted of an offense less than a felony, no cost shall be paid by the State to any officer.

Sec. 7. That in those counties where there shall have been cast at the next preceding presidential election less than 3000 votes the clerk of the district courts, district attorneys, county attorneys, sheriffs and constables shall receive from the State the fees and compensation in felony cases allowed under now existing laws, and are not intended to be affected by the provisions of sections 1, 2, 3, 4, 5 and 6 of this act.

Sec. 8. Each assessor of taxes shall receive the following compensation for his services, which shall be estimated upon the total values of the property assessed and collected for

sessing the State and county tax on all sums for the first \$2,000,000 or less, 5 cents for each \$100 of property assessed; and on all sums in excess of over \$2,000,000 and less than \$5,000,000, 2 cents on each \$100; and on all sums in excess of \$5,000,000, 1½ cents on each \$100. Two-thirds of the above fees shall be paid by the State and one-third by the county; and for assessing the poll tax, 5 cents for each poll, which shall be paid by the State. The commissioners' court may allow to the assessor of taxes such sums of money, to be paid monthly from the county treasury, as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, such sums so allowed to be deducted from the amount allowed to the assessor as compensation upon the completion of said tax rolls; provided, the amount allowed the assessor by the commissioners' court shall not exceed the compensation that may be due by the county to him for assessing.

Sec. 9. There shall be paid for the collection of taxes, as compensation for the services of the collector, beginning with the 1st day of September of each year, 5 per cent on the first \$10,000 collected for the State, and 4 per cent on the next \$10,000 collected for the State, and 1 per cent on all collected over that sum; for collecting the county taxes, 5 per cent on the first \$5000 of such taxes collected, and 4 per cent on the next \$5000 collected, and 1¼ per cent on all such taxes collected over that sum, and in counties owing subsidies to railroads, the collectors shall receive only 1 per cent for collecting such railroad tax; and in cases where property is levied upon and sold for taxes, he shall receive the same compensation as allowed by law to sheriffs or constables upon making a levy and sale in similar cases, but in no case to include commissions on such sales, and on all occupation and license taxes collected, 4 per cent.

Sec. 10. That hereafter the maximum amount of fees of all kinds that may be retained by any officer mentioned in this section as compensation for services shall be as follows, namely: Sheriff, an amount not exceeding \$2000 per annum; county judge, an amount not exceeding \$2000 per annum; clerk of the county court, an amount not exceeding \$2000 per annum; county attorney, an amount not exceeding \$2000 per annum;

district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2000 per annum; collector of taxes, an amount not exceeding \$2000 per annum; assessor of taxes, an amount not exceeding \$2000; justice of the peace, an amount not exceeding \$1200 per annum; constables, an amount not exceeding \$1200 per annum; and in addition thereto one-fourth of the excess of fees collected by the said officers respectively; provided, that this act shall not apply to justices of the peace and constables, except those holding office in cities of more than 15,000 inhabitants, to be determined by the next preceding city election on the basis of five inhabitants for each vote cast at such election; provided, that up to 1902 in counties in which there were cast at the last presidential election as many as 5000 votes, and thereafter any counties shown by the national census of 1900 to contain as many as 25,000 inhabitants the following amounts shall be allowed, viz.: Sheriff, an amount not exceeding \$2250 per annum; county judge, an amount not exceeding \$2250 per annum; clerk of the county court, an amount not exceeding \$2250 per annum; county attorney, an amount not exceeding \$2250 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district court, an amount not exceeding \$2250 per annum; collector of taxes, an amount not exceeding \$2250 per annum; assessor of taxes, an amount not exceeding \$2250 per annum, in addition thereto one-fourth of the excess of fees collected by the said officers respectively; provided further that in counties containing a city of over 25,000 inhabitants, or in which there were cast at the last presidential election as many as 7500 votes or by the census of 1900 shall contain as many as 37,500 inhabitants the following amount of fees shall be allowed, viz.: Sheriff, an amount not exceeding \$2500 per annum; county judge, an amount not exceeding \$2500 per annum; clerk of the county court, an amount not exceeding \$2500 per annum; county attorney, an amount not exceeding \$2500 per annum; district attorney, an amount not exceeding \$2500 per annum, inclusive of the \$500 allowed by the Constitution and paid by the State; clerk of the district

court, an amount not exceeding \$2500 per annum; collector of taxes, an amount not exceeding \$2500 per annum; assessor of taxes, an amount not exceeding \$2500 per annum, and in addition thereto one-fourth of the fees collected by the officers respectively; provided, that the county attorney in those counties having no district attorney, where he performs the duties of district attorney, may receive the same compensation as provided for the district attorney; provided, the maximum fixed for compensation of the district attorney shall be construed to be the amount which that officer is authorized to retain of fees allowed such officer in his district, whether composed of one or more counties; provided, that in counties where a county judge acts as superintendent of public instruction he shall receive such other salary as may be provided by the commissioners court, not to exceed the sum of \$600 per annum. The last United States census shall govern as to the population of cities.

Sec. 11. The amounts allowed to each officer mentioned in section 10 of this act may be retained out of the fees collected by him under existing laws; but in no case shall the State or the county be responsible for the payment of any sum when the fees collected by any officer are less than the maximum compensation allowed by this act, or be responsible for the pay of any deputy or assistant. Each officer mentioned in the preceding section shall, at the close of each fiscal year, make to the district court of the county in which he resides a sworn statement showing the amount of fees collected by him during the fiscal year, and the amount of fees charged and not collected, and by whom due, and the number of deputies and assistants employed by him during the year, and the amounts paid or to be paid each; and all fees collected by officers named in section 10 of this act during the fiscal year, in excess of the maximum amount allowed and of the one-fourth of the excess of the maximum amount allowed for their services, and for the services of their deputies or assistants hereinafter provided for, shall be paid to the county treasurer of the county where the excess accrued; provided, that any officer in section 10 of this act who does not collect the maximum amount of his fees for any fiscal year and who reports delinquent fees for

when collected, such part of such delinquent fees as is sufficient to complete the maximum compensation for the year in which delinquent fees were charged, and also to retain the one-fourth of the excess belonging to him, and the remainder of the delinquent fees for that fiscal year shall be paid as hereinbefore provided for when collected.

Sec. 12. Whenever any officer named in section 10 of this act shall require the service of deputies or assistants in the performance of his duties, he shall apply to the county commissioners' court of his county for authority to appoint same, and the county commissioners' court shall issue an order authorizing the appointment of such a number of deputies or assistants as in their opinion may be necessary for the efficient performance of the duties of said officer. The officer applying for appointment of a deputy or assistant, or deputies or assistants, shall make affidavit that they are necessary for the efficiency of the public service; and the county commissioners' court may require, in addition, a statement showing the need of such deputies or assistants, and in no case shall the county judge or commissioners' court attempt to influence the appointment of any person as deputy or assistant in any office. The maximum amount allowed for deputies or assistants for their services shall be as follows, to-wit:

First assistant or chief deputy, a sum not to exceed a rate of \$1200 per annum, others not to exceed a rate of \$900 per annum.

The commissioners' court, in issuing his order granting authority to appoint deputies or assistants, shall state in such order the number of deputies or assistants authorized and the amount to be paid each, and the amount of compensation allowed shall be paid out of the fees of office to which said deputies or assistants may be appointed, and shall not be included in estimating the maximum salaries of officers named in section 10 of this act.

Sec. 13. All fees due and not collected as shown in the report required by section 11 of this act shall be collected by the officer to whose office the fees accrued and out of such part of delinquent fees as may be due the county, the officer making such collection shall be entitled to 10 per cent of the amount collected by him, and the remainder shall be paid into the county treasury, as provided in section 11 of this act.

officer to remit any fee that may be due under the law fixing fees.

Sec. 14. Any officer named in section 10 of this act who shall fail to charge up the fees or costs that may be due under existing laws, or who shall remit any fee that may be due under the laws, or who shall fail to make the report required in section 11 of this act, or who shall pay his deputy or assistant a less sum than the amount specified in his sworn statement, or receive back any part of such compensation allowed such deputy or assistants as a rebate, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than \$25 nor more than \$500. Each act forbidden in this section shall constitute a separate offense.

Sec. 15. It is not intended by this act that the commissioners' court shall be debarred from allowing compensation for ex officio services to county officials not to be included in estimating the maximum provided for in this act, when in their judgment such compensation is necessary; provided, such compensation for ex officio services shall not exceed the amounts now allowed under the law for ex officio services; provided further, the fees allowed by law to district and county clerks, county attorneys and tax collectors in suits to collect taxes shall be in addition to the maximum salaries fixed by this act.

Sec. 16. It shall be the duty of those officials named in section 10 of this act to keep a correct statement of the sums coming into their hands as fees and commissions, in a book to be provided by them for that purpose, in which the officer at the time when any fees or moneys shall come into his hands shall enter the same, and it shall be the duty of the grand jury (and the district judge shall so charge the grand jury) to examine these accounts at the session of the district court next preceding the first day of December of each year, and make a report on same to the district court at the conclusion of the session of the grand jury.

Sec. 17. The officers named in sec. 10 of this act in those counties having a population of 5000 or more shall be required to make a report of fees as provided in section 11 of this act, or to keep a statement provided for in section 16 of this act; the population of the county to be determined by the vote cast at the next preceding presidential election, on the basis of five

inhabitants for each vote cast at such election; provided, that all district attorneys shall be required to make the reports and keep the statements required in this act.

Sec. 18. The tax collector and tax assessor, at the time of their settlement of accounts with the Comptroller, shall file with him a copy of the sworn statement required under section 11 of this act.

Sec. 19. A fiscal year within the meaning of this act shall begin on December 1 of each year, and each officer named in section 10 of this act shall file the reports and make the settlement required in this act on December 1 of each year. Whenever such officer serves for a fractional part of a fiscal year, he shall nevertheless file his report and make a settlement for such part of a year as he serves and shall be entitled to such proportional part of the maximum allowed as the time of his services bears to the entire year. However, an incoming officer elected at the general election, who qualifies prior to December 1 next following shall not be required to file any report or make any settlement before December 1 of the following year, but his report and settlement shall embrace the entire period dating from his qualification. This act shall take effect and be in force from and after December 1, 1897.

Sec. 20. The sheriff shall not be required to include in his reports and statements required by sections 11 and 16 of this act the following items, to-wit: All actual expenses, including the per diem allowed him received from the State in conveying attached witnesses out of the county of his residence. 2d. Mileage and sums allowed by law and paid by the State as expenses for removing and conveying prisoners to and from any point beyond the county of the sheriff's residence under all legal warrants issued in felony cases. 3d. All sums received as rewards for making arrests of fugitives from justice. 4th. All sums received from the county for the safe keeping, support and maintenance of prisoners confined in jail. Nor shall said items be regarded as fees of office within the meaning of this act, to be included in making up the sheriff's maximum.

Sec. 21. Any district clerk who shall issue any attachment or subpoena for any witness except upon an order of court or upon the written application, signed and sworn to by the defendant or State's counsel, stating that such

witness is believed to be a material witness, shall be deemed guilty of a misdemeanor, and upon conviction fined in any sum not less than \$25 and not more than \$500.

Sec. 22. The clerks of the district court shall receive for the following services the following fees:

For copy of petition, including certificate and seal, each 100 words, 15 cents; provided, whenever in any suit a certified copy of any petition or any other instrument is necessary in the district or county court, it shall be lawful for the plaintiff or defendant to prepare such true and correct copy thereof, and to submit the same to the clerk of the district or county court, as the case may be, whose duty it shall be to compare the same with the original instrument, and if found to be correct he shall attach his certificate of true copy; for such service he shall receive 50 cents for each certificate and seal, and in addition thereto the sum of 10 cents per page, 700 words to the page, for each page of said copy. Each writ of citation, 75 cents; each copy of writ of citation, 25 cents; filing of each paper, 10 cents; entering appearance of each party to suit, to be charged but once, 5 cents; each final judgment or decree, 75 cents; every other order, judgment or decree not exceeding 200 words, 25 cents; where the order, judgment or decree, whether final or not, exceeds 200 words, the additional fee for each 100 words in excess of 200 words shall be 10 cents; making out and transmitting the records and proceedings in a cause to an inferior court, for each 100 words, 15 cents; making transcript of the records and papers in any cause upon appeal or writ of error, with certificate and seal, each 100 words, 10 cents; recording return of any writ, when any such return is required by law to be returned, the amount of 50 cents; where the return exceeds 300 words, for each 100 words in excess of 300 words, 10 cents; making a copy of all records of judgment, or papers in file in his office, for any party applying for same, with certificate and seal, where copy does not exceed 200 words, for each 100 words, 20 cents; where the copy exceeds 200 words, for each additional 100 words in excess of 200 words, 10 cents.

Sec. 23. The clerks of the county court shall receive for the following services the following fees:

Each final judgment or decree, 50 cents; every other order or decree, not exceeding 100 words, 15 cents; where

such other order or decree contains 100 words and not more than 200 words, 25 cents; when any final judgment or decree, or any other order or decree, exceeds 200 words, an additional fee for each 100 words in excess of 200 words of 10 cents; each appearance, to be charged but once, 5 cents; each additional name inserted in a subpoena, 5 cents; approving bond, except bond for costs and notarial bond, \$1; approving notarial bond, 50 cents; copies of interrogatories, cross interrogatories and all other papers or records required to be copied by him, including certificate and seal, where the copy does not exceed 200 words, for each 100 words, 15 cents; where the copy exceeds 200 words, for each additional 100 words in excess of 200 words, 10 cents; transcript in any case where appeal or writ of error is taken, with certificate and seal, each 100 words, 10 cents; recording all papers required or permitted by law to be recorded, not otherwise provided for, including certificate and seal, for each 100 words, 10 cents; issuing and recording marriage license, \$1; recording return of any writ, when any such return is required by law to be returned, the amount of 50 cents; where the return exceeds 300 words, for each 100 words in excess of 300 words, 10 cents; qualifying a notary public, 50 cents. No county or district clerk shall receive any compensation for assessing damages in any case.

Sec. 24. Sheriffs shall receive for the following services the following fees:

Serving each original citation in a civil suit, 75 cents; levying and returning writ of attachment or sequestration, \$2; levying each execution, \$1; return of execution, 50 cents; serving each writ of garnishment or other process not otherwise provided for, 75 cents; serving each writ of injunction, \$1; collecting money on an execution or an order of sale, when the same is made by a sale, for the first \$100 or less, 4 per cent; for the second \$100, 3 per cent; for all sums over \$200 and not exceeding \$1000, 2 per cent; for all sums over \$1000 and not exceeding \$5000, 1 per cent; for all sums over \$5000, one-half of one per cent.

Sec. 25. Justices of the peace shall receive for the following services the following fees:

For filing each paper, 5 cents; each continuance, 10 cents.

Sec. 26. All laws and parts of laws in conflict with this act are hereby repealed. It is not intended, however,

by this act to repeal the present laws with regard to any fees, except where there is a conflict between the fees prescribed by now existing laws and the fees prescribed by this act.

Sec. 27. The fact that the session of the Legislature is fast growing to a close, and the importance of this bill, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill be put on its third reading and final passage, and it is so enacted.

WAYLAND, Acting Chairman.

Senator Gough moved to suspend the rule requiring bills to be printed, as to this bill.

Senator Linn of Victoria moved as a substitute that the bill go over till tomorrow, and that same be printed in the Journal.

Lost.

Senator Gough's motion prevailed by the following vote:

Yeas—18.

Atlee.	Neal.
Bowser.	Rogers.
Burns.	Ross.
Colquitt.	Stafford.
Dibrell.	Terrell.
Gough.	Turney.
Greer.	Woods.
Kerr.	Yantis.
Morriss.	Yett.

Nays—7.

Beall.	Lewis.
Darwin.	Linn, Victoria.
Goss.	Wayland.
Harrison.	

Absent.

Linn, Wharton.	Stone.
Presler.	Tillett.

Excused.

Bailey.	Boren.
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Senator Gough then moved that the rule (Senate Rule No. 51) requiring committee reports to lie on the table one day be suspended.

Carried by the following vote:

Yeas—18.

Atlee.	Neal.
Bowser.	Rogers.
Burns.	Ross.
Colquitt.	Stafford.
Dibrell.	Terrell.
Gough.	Turney.
Greer.	Wayland.
Kerr.	Woods.
Morriss.	Yantis.

Nays—7.

Beall.	Lewis.
Darwin.	Linn of Victoria.
Goss.	Yett.
Harrison.	

Absent.

Linn of Wharton.	Stone.
Presler.	Tillett.

Excused.

Bailey.	Boren.
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Senator Gough then moved to adopt the committee report.

Adopted.

(Senator Linn of Victoria in the chair.)

Bill read second time.

By Senator Goss:

Amend by adding after the word "accrued," in line 5, page 9, the following, "except that in the case of the district attorney the excess shall be paid into the State treasury."

Senator Gough moved to lay the amendment on the table.

Carried by the following vote:

Yeas—14.

Bowser.	Morriss.
Colquitt.	Rogers.
Gough.	Ross.
Greer.	Stafford.
Kerr.	Wayland.
Lewis.	Woods.
Linn of Victoria.	Yantis.

Nays—9.

Beall.	Linn of Wharton.
Darwin.	Terrell.
Dibrell.	Turney.
Goss.	Yett.
Harrison.	

Absent.

Atlee.	Presler.
Burns.	Stone.
Neal.	Tillett.

Excused.

Bailey.	Boren.
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By Senator Darwin:

Amend page 2 by striking out all of line 28 and inserting in lieu thereof the following, "Actual traveling expenses not to exceed the amount allowed by law for such services rendered in the State."

Senator Gough moved the previous question on the amendment and the bill, which was duly seconded, and ordered by the following vote:

Yeas—15.

Atlee.	Greer.
Burns.	Kerr.
Colquitt.	Linn, Victoria.
Gough.	Morriss.

Ross.
Stafford.
Terrell.
Turney.

Woods.
Yantis.
Yett.

Nays—11.

Beall.
Bowser.
Darwin.
Dibrell.
Goss.
Harrison.

Lewis.
Linn, Wharton.
Neal.
Rogers.
Wayland.

Absent.

Presler.
Stone.

Tillett.

Excused.

Bailey.
Boren.

The amendment (Darwin's) was lost.

The bill was then ordered engrossed.

On motion of Senator Gough, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—21.

Atlee.
Beall.
Bowser.
Burns.
Colquitt.
Dibrell.
Gough.
Greer.
Kerr.
Linn, Victoria.
Morris.

Neal.
Rogers.
Ross.
Stafford.
Terrell.
Turney.
Wayland.
Woods.
Yantis.
Yett.

Nays—5.

Darwin.
Goss.
Harrison.

Lewis.
Linn, Wharton.

Absent.

Presler.
Stone.

Tillett.

Excused.

Bailey.
Boren.

Bill read third time, and passed.

Senator Gough moved to reconsider the vote by which the bill was passed, and to lay that motion on the table.

Carried by the following vote:

Yeas—18.

Atlee.
Beall.
Bowser.
Colquitt.
Dibrell.
Gough.
Greer.
Kerr.
Linn, Victoria.

Morris.
Rogers.
Ross.
Stafford.
Terrell.
Turney.
Wayland.
Woods.
Yantis.

Nays—8.

Burns.
Darwin.
Goss.
Harrison.

Lewis.
Linn, Wharton.
Neal.
Yett.

Absent.

Presler.
Stone.

Tillett.

Excused.

Bailey.
Boren.

Senator Colquitt introduced the following bill:

Senate bill No. 14, a bill to be entitled "An act to amend sections 1069 and 1070, of the Revised Civil Statutes of the State of Texas, relating to the appointment of special district judges, and to reduce the expense of the State government."

Read first time, and referred to the Committee on State Affairs.

(Lieutenant Governor Jester in the chair.)

Senator Lewis moved to suspend the constitutional rule requiring bills to be read on three several days, and that Senate bill No. 7 (fellow-servant bill) be put upon its third reading and final passage.

Senator Dibrell made the point of order that the motion to suspend was not in order, for the reason that the same motion had been voted down.

Sustained.

On motion of Senator Linn of Victoria,

Senator Stone was excused indefinitely, on account of important business.

On motion of Senator Morris, the Senate adjourned to 10 a. m. to-morrow.

FIFTEENTH DAY.

Senate Chamber,

Austin, Tex., Thursday, June 10.

Senate met pursuant to adjournment.

Lieutenant Governor Jester in the chair.

Roll called.

Quorum present, the following Senators answering to their names:

Atlee.
Bailey.
Beall.
Bowser.
Burns.
Colquitt.
Darwin.
Dibrell.

Goss.
Gough.
Greer.
Harrison.
Kerr.
Lewis.
Linn of Victoria.
Linn of Wharton.